



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

June 23, 2020

BY ECF

Honorable Sarah L. Cave  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Dov v. Bureau of Prisons*, 20 Civ. 4343 (SLC)

Dear Judge Cave:

This Office represents the Government in the above-referenced habeas matter. The Government writes respectfully to request permission to file under seal the petitioner's medical records from the Bureau of Prisons. Consistent with Section 6 of this Court's Individual Rules, these documents will be filed under seal on ECF and electronically related to this letter motion.

The government respectfully submits that sealing is appropriate notwithstanding the presumption of access discussed by the Second Circuit in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006), in light of the privacy interests of individuals in their medical records. See, e.g., *Barnwell v. FCI Danbury*, No. 3:10-cv-01301 (DJS), 2011 WL 5330215, at \*5 (D. Conn. Nov. 3, 2011) (noting a rebuttable presumption of openness of court filings, but granting motion to seal in light of federal law's treatment of such records as confidential pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Pub. L. 104-191 (1996)). Courts in this District have permitted the sealing of medical records, even if specific details relating to the individual's health appear on the record. See, e.g., *United States v. Needham*, \_\_\_ F. Supp. 3d \_\_\_, No. 06-cr-911 (WHP), 2020 WL 2512105, at \*1 n.1 (S.D.N.Y. May 15, 2020); *United States v. Estevez*, No. 18-cr-669 (JPO), 2020 WL 1911207, at \*1 (S.D.N.Y. Apr. 20, 2020); *United States v. Ebbers*, 432 F. Supp. 3d 421, 423 n.1 (S.D.N.Y. 2020) (noting defendant's waiver through "extensively citing to his medical records and medical history in his own motion, in correspondence with the Court, and in open Court during oral argument on his motion").

Petitioner's counsel consents to this request.

I thank the Court for its consideration of this request.

Respectfully submitted,

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Southern District of New York

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Respondent's Letter-Motion to file Petitioner's medical records under seal (ECF No. 15) is GRANTED. The Clerk of Court is respectfully directed to close ECF No. 15.

SO-ORDERED 6/24/2020

  
SARAH L. CAVE  
United States Magistrate Judge